IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.5594 of 2006 (O&M)

Date of Decision: 20.03.2007

Anil Kumar & Anr. ..Petitioners

Vs.

Om Parkash & Ors. ..Respondents

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.Robin Dutt, Advocate,
for the petitioners.

Mr.C.B.Goel, Advocate,
for respondent No.1.

Vinod K.Sharma,J. (Oral)

CM No.5852-CII of 2007

Allowed. Affidavit annexed with the application is taken on record.

CR No.5594 of 2006

Present revision petition has been filed against an order passed by the learned Civil Judge (Junior Division), Jagadhri vide which application moved by the petitioners under Order 1 Rule 10 of the Code of

Civil Procedure for being impleaded as defendants in the suit filed by the plaintiff-respondents No.2 to 8 for foreclosure of mortgage and declaring them to be owners of the property, has been dismissed.

After closure of the evidence the case was fixed for arguments. It is thereafter that the present application was moved by the applicants by claiming themselves to be the legal heirs of Kakyan Wali on the basis of Will executed in their favour. It may, however, be noticed that Kakyan Wali was not a party to the suit and therefore, the petitioners have no right to be impleaded as party on the basis of Will allegedly executed by Kakyan Wali in favour of present petitioners. It may further be noticed that the plaintiffs being dominus lites have to decide as against whom the suit is to be filed. The application under Order 1 Rule 10 of the Code can only be entertained if the applicants are necessary or proper parties to the suit. In the present case nothing has been disclosed as to how the suit cannot be decided in their absence

No ground is made out which may call for interference by this court in the impugned order in revisional jurisdiction.

Dismissed.

March 20,2007 **(Vinod K.Sharma)**
rp **Judge**